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UDK – 003.6.079 :: 177.82 : 364.632 – 053.6
Original scientific paper
Received: 02.05.2012.

Street Graffiti – Between Amnesty of *Our Children* and Moral Panicking*

Abstract: *The paper presents a criminological analysis of phenomenology and origin of hate graffiti. The intention of the author is to define its place in the context of hate speech, on one hand but also within the general context of street graffiti, on the other hand. The paper offers an analysis of the motives which are behind the hate graffiti and a presentation of the various categories of the graffiti authors, who are mostly marginalised youngsters. The author indicates the possible existence of principals standing behind the young graffiti authors and providing means and orders to them. Pre-election campaigns and some other social conflicting moments are identified as the usual periods of intensified graffiti occurrences. The paper presents the cases of the graffiti in Novi Sad and Prijepolje, in terms of comparing one of the biggest cities in Serbia with a small town, but both of multiethnic population. Special attention is paid throughout the paper to the graffiti with hate as their main message and content, calling for violence and discrimination. The emphasis is on the fact that impunity of such graffiti cannot be defended by freedom of speech arguments because hate speech is misuse of such freedom. Although there is a presentation of the legal provisions which stipulate sanctions for the hate graffiti authors, the text does not call for more rigid sanctions against them. This is not a campaign against the authors of hate graffiti or an instance of detestation of those who vandalize urban areas by their slogans of hate, lynch, and discrimination, nor does the paper intend to provide evidence that tolerated hate graffiti will inevitably and automatically lead to acts or crimes of hate.*

Keywords: *street hate graffiti, youth subculture, alternative narration, vandalism of public property, discrimination, violence, threats, positive validation of hate.*

* The paper has resulted from the project within which the author is engaged, entitled *Social Transformations in the Process of European Integrations - a Multidisciplinary Approach* („Друштвене трансформације у процесу европских интеграција - мултидисциплинарни приступ“) financed by the Ministry of Science and Technological Development, 2011-2014.

Introduction

Implied impunity of a wide range of acts of hooliganism, vandalism, and violent behaviours has almost been perceived as inevitable and it appears to have become a part of the Serbian urban legend, some kind of social fatalism. Manifestations of such unpunished vandalism include street graffiti, whose numbers are ever increasing in the public areas of Serbian cities and towns and which show prominent features of hate speech in times of election campaigns or at some other potentially conflicting moments. Perhaps the absence of sanctions is motivated by inefficiency of relevant institutions or lack of what is often referred to as political will, but maybe it is just lack of understanding of the true nature of the street graffiti combined with lack of conviction that they could have any real bearing on anyone. The slogan that “they are our children“ is probably at work when it comes to hate graffiti because it is regularly used to justify hooliganism and vandalism, that is much more dangerous conduct, including not only threat and attempted homicide, but the vary acts of homicide as well. Namely, ‘our children’ were the arsonists of Bajrakli Mosque and the US Embassy, the busters of the gay parade, attackers and murderers of Brice Taton. Then there are mentions of hooligans as unemployed youth, the products of transitional Serbia, whose childhood passed during sanctions, poverty and air-raids, and it almost represents an ‘argument’ to show ‘understanding’ for them (*Глузоријевић*, 2012:1018) and not to respond to their deviant behaviour by legal measures and sanctions.

It is hard in such an atmosphere to believe that graffiti writers would be sanctioned even when they write most explicit hate graffiti, even if they commit acts of hatred in practice. Police can file criminal reports against fans who light torches, since this act is punishable by a three months’ imprisonment, but although the hooligans light more than 100 torches during the derby, the police rarely files reports¹, so who can we expect to report and institute proceedings against the authors ‘only’ writing the street graffiti? The example of Berlin shows that practice is not the same everywhere and does not have to be. Berlin is known to be the European graffiti capital, and a group of specially trained officials and police officers has been established there for combating graffiti and their authors the group employs - from its very beginning - 18 thousand persons. This special group has the power to search houses, schools, as well as personal property of the young ‘demolishers’ of walls. In February 1995, the first specialized raid against graffiti writers took place (*Spiegel*, 1995:6). In other European countries too, whenever the rights of minority-group members are violated, either by messages of hate or threats of violence, the courts instantly act according to the shortened procedure and most often pronounce the strictest prescribed penalty, which is not

¹ The police also have all the necessary data on all leaders of supporters, but who among them has ever been prosecuted (Екипа „Блица“ 2012:5).

the case in our country (*Миликић*, 2012:2-03).

The most serious problems are related to the street graffiti which comprise contents representing a form of hate speech. It is actually defined as speech directed against a person or persons based on racial, religious, ethnical affiliation or sexual orientation. The concept originated in the US in the late 1970's and since then laws have been adopted in many countries providing for additional sanctions for speech motivated by prejudice or intolerance against certain groups which result in encouraging and instigating racial hatred, aggression or crime, including the dissemination of Nazi propaganda. It should, however, be borne in mind that freedom of speech is one of the most important social values, and the limits of this freedom to the largest extent depend on the specific legal and political circumstances in a particular society. On the other hand, history teaches us about the dangers of tolerating the abuse of freedom of expression, because this is what hate speech actually represents – excessive use or abuse of this freedom. It is therefore important to sanction hate speech, especially bearing in mind the threat to freedom of speech. The broadest definition encompasses all instances of calls to violence, hatred, intolerance and instigation or incitement thereof, or justification of these with respect to the members of a certain group or clearly identified individuals, just because they are the members of some ethnic, religious, or gender group, or because their sexual orientation or political beliefs (*Ружичић*, 2010:1).

The Emergence of the Street Graffiti

Graffiti represent a special form of youth culture which, as a particular style of verbal and artistic expression, appeared in the nineteen sixties in the United States of America and rapidly spread throughout Europe, especially in public places of large European cities, such as Paris, London, Berlin, Amsterdam, and Budapest. At that time, the graffiti were a public, street outcry aimed at the protection of human and civil rights. Later, they more often targeted social and political topics. They flourished in the age of hippie youth culture. Today, Bronx (New York) is the home of the world's only Graffiti Museum.

Spontaneous inscriptions on the walls are truly a part of human civilization ever since its beginnings, but today they are primarily associated with the subculture of graffiti which belongs to the youth communication type (*Сулима*, 2005:69-70). They not only accompany the man ever since the origin of the writing culture, but appear even earlier, because the first artistic attempts at 'painting' on cave walls - as the first human dwelling places - were graffiti in the modern sense. Even before 'painting' the cave walls, the first traces of human presence were simple pints of human hands on the walls and the same instinct of leaving traces of one's existence is seen today as a motive for the emergence of numerous street graffiti.

Youth graffiti that we see in the public places of our cities on a daily basis often resemble children's 'scribbling', unskilled colouring and daubing, colloquially referred to as scrawl-art, only instead of being put on paper they are enlarged and inscribed on the walls, fences, lines of trees, underground subways, overpasses, and other public places, representing a kind of communicational and aesthetic contribution to the making of what is referred to as the 'city jungles' more dignified (Бирингер, 2005:191).

They are frequently, therefore, just enlarged graphic of school notebooks or those touchingly inevitable names inscribed in school desks to bear witness 'forever' about someone's school days. So sometimes they are utterly absurd, mere traces of somebody's presence, the sign of a relation to the place. They have their equivalent in the auditory contents such as shouting in the corridors, fan chanting in stadiums, listening to the echo in the nature, screaming in the mountains, 'likes' or 'hates' on the social networks. They represent the way of overcoming what art historians call *horror vacuit*, the fear of empty space, the fear of emptiness² due to which there is a tendency to fill any vacant space with figures, objects, ornaments, messages of acceptance or rejection, that is, the contents that are missing in reality (Сулима, 2005:115). The feeling of emptiness intensifies the need to confirm one's own existence. As such, due to their authors' desire to be seen and heard, the street graffiti fit into Debord's understanding of the society of spectacle in which "what is seen is good, what is good is visible" (Деборд, 2003:20).

Sometimes the graffiti only feign secrecy, as if the actual intentions of the ones who inscribe them on the wall could be some 'secret' code, a coded message to the members of some 'clandestine' associations. Such an inscription indicates the author's need to be freed from fear; they signify also antagonism towards the authorities, a kind of defence by a secret that is allegedly shared by the author and a narrow circle of persons (Сулима, 2005:77). Sometimes, then, they are just a clear readable message appeal with no secrets at all (e.g. "Everyone to Belgrade 5/2/2011", an invitation for supporters in Novi Sad, at the corner of Balzac Street and Narodnog fronta).

The Growing Alternative Narrative

The street graffiti are increasingly a part of what Fukuyama defines as "an emerging alternative narrative" which unstoppably grows around us (Мишић, 2012:11). In this sense, the graffiti are undoubtedly a democratic phenomenon because those who cannot place their artistic preferences and talents in the framework of established art, or cannot present their political views in official

² *Horror vacuit* is a creative element of style in the European ornamentals of the 19th century, an important component in the age of secession in which an ornament plays a prominent part, along with geometric shapes and symmetrical representation.

places of decision-making, will thus leave a visible, even lasting traces on the walls of derelict railway warehouses and factories, in the passages between skyscrapers, pedestrian overpasses, on the fences of sport stadiums and suburban tram depots. Moreover, although these are mostly just scribbles, there are a lot of street graffiti whose aesthetics of artistic representation refreshes the urban greyness, its monotonous uniformity, and repetitiveness. They bring life to the endless uniform monochromatic architecture of small aesthetic value and poor maintenance, especially in the neglected, peripheral urban settings of both residential and industrial zones and this makes them, in fact, most welcome, because they are visually agreeable, innovative, and stimulating. The existence of graffiti, thus, can be seen as an indicator of a democratic and pluralistic orientation of the society, as an expression of the freedom of speech and artistic creativity, as the presence of free-thinking, a pulsating alternative narrative of the urban culture. Stevan Karanović, the chair of the first Graffiti Association of Wall Artists in Serbia, also finds that graffiti can be mere scribbling and smudging, but also true gems of lightness and inspiration (*Глас јавности*, 2007:29/03). Still one should bear in mind that there is a wide range of graffiti – from lucidity to the lowest levels of triviality, so that they are not always expression of freedom and creativity, because they easily turn into lack of culture and vandalism.

Who are the Graffiti Artists?

In order to identify and analyse the reasons and motives for the occurrence of graffiti, especially the deviant ones, that is the ones expressing hatred, threats, and calling for violence and discrimination, it is vital to establish in the first place who their authors are. Are the persons who write street graffiti youngsters with prominently activist and anarchist characters, angry street ‘underground warriors’, an avant-garde of the ‘urban guerrilla’ or are they just ‘those football fans yet again’ and how young they really are; which generations do they most often belong to; do they speak for themselves in their graffiti or represent just an ‘extended arm’ of the much older and more powerful? Since most graffiti usually appear in the heat of election campaigns, it is certain that the motives for their occurrence lie with the adults, and not the juveniles who are their immediate ‘authors’. In the communities with the predominant minority population, hate messages provoke widespread fear, and they therefore denote the hate graffiti authors and their principals as “anonymous sick persons, who declare their own madness to be patriotism“ (*Хаџаџић-Дураковић*, 2012:1). Those who have personally been the victims of violence characterize this situation as “unparalleled, orgiastic rule of scum who imposes itself as the measure of all things in our lives – and it could impose itself because we allowed it, by acts or failure to act“ (*Панчић*, 2012:1108). Some non-governmental organization have warned that it has nothing to do with excess conduct of individuals, but “organized actions of

fascist organisations“ and that violence perpetrated by the fascist organisations is no ordinary violence, but “the violence that is systematic and organised, the purpose of which is to eliminate the different in the general climate of impunity which makes space for the spreading of violence that will not be punished against the members - male or female - of whichever minority, by the fascist groups“ (*Лабрус*, 2012:27/03).

The question of who the graffiti writers are is therefore answered from case to case and there is no general, universally applicable reply. It is considered, however, that the writing and painting of the street graffiti is favourite and prevalent form of expression mostly among the young people, most often minors, who express their emotions and attitudes and whose messages, depending on the contents, in most instances remain within the borders of the socially tolerated, transgressing it at times, but most frequently remaining in the domain of what is likable, acceptable and permissible.

The writer/painter or the creator of the non-hate graffiti will more often than not turn out to be an artistic nature (*Југовић*, 2007:20), a passive aestheticist, than a belligerent attacker. Whichever of the mentioned personality variance they belong to, they mostly originate from the heterogeneous proletariat-like mixture of urban poverty, racial and ethnic minorities and other marginalized groups characterized by slowed down or hampered social mobility. As regards their personal capacities and social capital at their disposal, they are very remote from the most talented and educated members of both their generation and the general population. Consequently, not only have they reduced potentials for the placement of their ideas and views, but also the reduced capacities for the articulation thereof. Simple slogans characteristic of graffiti (just like the slogans chanted at football stadiums) may therefore be authentic and maximal products of the ones who are actually incapable of devising a political speech or a programme, journalistic or scientific paper, radio or television programme, show or a theatrical play, even if they could present them in public.

The Graffiti Transgressing the Domain of the Allowed: Recent Cases in Novi Sad and Prijepolje

When discussing the graffiti, one should not overlook the fact that a portion of graffiti can undoubtedly be deemed to represent an obvious manifestation of human destructiveness, threat of violence, and vandalism (*Комленовић*, 2010:468). The graffiti inflict damage to public facilities, private property, cemeteries, churches, historic and cultural goods, i.e. they may cause damage or destruction and - in any event - there are the costs of their removal or covering by painting. Their occurrence and frequency in the areas of or adjoining

schoolyards indicate possible developments and an escalation of what Debarbieux³ (*Философија*, 2011:339) defines as anti-school violence, aimed against teachers, school facilities, and property. They can be the demarcation sign and warning of territorial issues, but also an invitation to gather for a showdown with the adversary group or anyone else they may designate as an adversary.

But the graffiti are not only potential physical disparagement and damage of the surfaces on which they are inscribed; the ones that contain the messages of hatred and calls to violence contaminate the communication space, representing thus a special kind of illicit hate speech. The graffiti can also be an occasion, a cause or part of some other socially pathological actions and/or activities prohibited by law, such as the fans' threatening and physically assaulting citizens or members of the opposite club or team supporters who have painted their graffiti written in support of 'their' club or written their own in the city area they consider to be 'their' territory.

A typical example illustrating how a harmless street call to gather for a joint departure to a game (Novi Sad, the already mentioned corner of Balzac street and Narodni front street) only a couple of blocs away in the same Balzac street, the same fans, possibly the authors of the mentioned call, committed violence against a citizen whom they "caught" in the act of repainting "their" graffiti. Slavko Gavrilovic from Novi Sad was beaten by a group of fans in October 2011 because he tried to remove the graffiti written at the entrance to his building. The beating was followed by new threats to Gavrilovic. A graffiti of the following contents appeared on the facade of his building in Balzac street in the area of Novi Sad known as Liman: "*You old c..., why don't you paint it now?*" The message was signed by "FCV" (*JM*, 2012:17).

Leaving improper, often insulting, and passionate messages is not typical only of large cities; this has recently been noted in smaller towns as well. Hate graffiti, for instance, are a comparatively recent phenomenon in everyday life of Prijepolje. The town of Prijepolje seems to have firmly resisted all forms of hate speech until recently. True, during 1990s there were some chauvinist graffiti of the following contents: "Knife, wire, Srebrenica", "Serbia to Serbians", "This is Raška, not Sandžak". However, a true escalation in hate graffiti took place in Prijepolje only in February 2008 when Kosovo independence was declared. The buildings of Prijepolje became covered, for the first time, by slogans expressing hatred, such as "Shiptars on dicks", "LDP Ustashas", "B92 in the dark". This was followed by the announcements of the Belgrade Pride Parade in 2009 and someone's inscription "Kill the gay" in the town centre, as the first public invitation to lynch. Then came the arrest of Ratko Mladić, and the walls of Prijepolje buildings were covered with a number of messages calling him a hero or stating that "All of us are Ratko".

³ In 1993, Eric Debarbieux carried out a research within the European observatory of violence in school surroundings which showed that a substantial number of students in French schools had gradually developed intense aversion towards such an institution and that the aversion had over time turned into actual anti-school or even broader anti-institutional culture.

Hate and Positive Evaluation of Evil and Hatred

Hate graffiti, as part of a widely understood phenomenon that is referred to as hate speech, mean hatred, but also imply positive evaluation of evil and hatred. There is a point of conflict between the two value systems, the system of classical morality that condemns actions which inflict evil to others and other systems that in a way define the ontology of violence as a manifestation of “what is.” The evil is positively evaluated, i.e. value is attributed to something that is negative (Минић, 2000:5,1).

What is perceived to present the negative value of evil and destruction from the positions of classical morals, appears to be redefined and re-evaluated by the graffiti and their repetitiveness, omnipresence, and persistence.

In a culture that has been marked by manifold social disorganization, what we have in common is fear, the way of understanding the existence and functioning of the society in which a general decline of morality has been present for many years, accompanied by a degradation of legal, political, and ethical liability (Симовић-Хубер, 2011:110). Hate graffiti in this context quite certainly contribute to increasing fear of lawlessness, mass rioting of fan groups, uncontrolled increase in perpetrated criminal offences - in short, the fear of possible victimization, not only among specific groups specifically targeted by threats and hatred, but generally. Among other things, they open the mental door to panic because their presence shows our vulnerability in a culture of tolerated hatred and condoned violence. The hate graffiti contribute to defining and evaluating the historic moment we live in as the culture of condoned violence – including aesthetical and political issues (Бирингер, 2005:183).

Asked when the hate graffiti actually occur in our country, linguist Svenka Savic (*Deutsche Welle*, the Internet), the author of several studies on graffiti, points out that before the wars of the nineteen nineties there had almost been no hate graffiti, especially not those of nationalist contents. Until the nineties, there were no messages on the facades or any public facilities, apart from the harmless names of kids from the neighbourhood. This seems to support the view of the French philosopher Alain Badiou that the dissolution of the social state is a positive dimension in itself, but that since then the political vacuum has not stopped producing monsters (Бадью, 2008, 72) of totalitarianism, violence, uncontrolled rage, permanent marginalization, hatred, spiritual and material impoverishment of many people. For the past few years, according to sociologists, the graffiti are mainly aimed at expressing opinions about political parties and leaders, and often present an expression as chauvinistic intolerance of minority groups. Thus they become the instrument of hatred and destruction (Хамазгић-Дураковић, 2012:1).

If for a moment we put aside the writing of graffiti as part of urban culture, as a way of expressing the rebellion of youth, or as a communal problem, and if we analyse and interpret the contents of the graffiti and motives of these mes-

sages, a large number of cases confirms that they are motivated by hatred of other persons, most frequently based on the national, racial, sexual or religious grounds. The irony of the entire situation thus becomes apparent because the main social groups targeted by hate graffiti (e.g. the Roma, LGBT population, ethnical minorities, etc.) belong to a very similar if not identical proletarian mix of poverty, marginalization, and discrimination, just like the graffiti writers! That is why the question why instead of social solidarity among them there is antagonism at times rising to the level of publicly expressed hatred of such an intensity that is only a step or even less far from publicly expressed, applied violence yet remains to be answered. Their confrontation in such a way makes social justice even more remote from becoming a possible category of state and social order (Бадиџ, 2008:70). One of the possible replies has been offered by the results of a number of studies carried out of S. Savić, because they unambiguously lead to a conclusion that such graffiti do not occur spontaneously: "... graffiti are a means by which some powerful persons have found persons who will write them or have their ranks responsible for writing them."⁴

The recently carried out research mapping of hate graffiti noted as many as 224 such graffiti in downtown Novi Sad, more than a half of which present hate speech against the LGBT population, which reflects a high level of homophobia and transphobia in the society. Most graffiti containing homophobic messages appeared in the period of 2009 and 2010. The remaining 44 percent of the graffiti express hatred based on the national, ethnical, or religious affiliation, most of them expressing intolerance of the Roma (63 percent), then Albanians (17 percent), Croatians (13 percent), but also the Chinese (7 percent). Five percent of the hate graffiti referred to other personal characteristics such as sex and disability. Out of the total number of the mapped graffiti, as many as 35 percent call for the deprivation of life (СЈ., Данас, 2011:23).

Our daily reality is marked by hyper production of images of enemies. Intimidation is the most efficient lever of authority and control. The more *intimidated and contorted* we are, the easier it is for the political, economic, and other elites to do what is beneficial for them only (of course, claiming that it is beneficial for the society generally). Picking up that game, mostly unconsciously, allowing to be intimidated by the *others* and *different*, we directly contribute to the spreading of structural and cultural violence (Франовић, 2007:97). The most widespread forms of this acceptance include apathy, irresponsiveness, silence, and denial.

The problems of discrimination, intolerance, and hate-motivated violence stem from social divisions, structural inequalities, and social antagonisms derived from the. It is therefore not always good to blame the hate graffiti only on those who write them. People find it much easier to understand that they are the

⁴ A high-school art teacher and an activist of the Serbian Radical Party was said by the local media in Prijepolje to have been one of the authors of the graffiti of offensive contents in this small town with the population of mixed ethnic origin.

victims of a wrong man then that they are the victims of a wrong ideology or even its absence, bad social climate, or wrong habits accepted by the many. It is easiest to analyse individual motives and personalities of the graffiti authors and say ‘those supporters again’ without seeing that they are a part of a wider confrontational social context marked by the acceptability of the culture of violence. The dichotomy of division into “us” versus “them” is present in all societies in all historic periods (Лалић, 2010:23-32). The demarcation lines between the dichotomous identities can be the areas of peace, tolerance, interest in others, cooperation, but they may also be the zones of conflicts, intolerance, rejection, denial of rights to existence to the ones on “the other side”, etc. Hatred may be born there, but it is at the same time the place where it can be suppressed and completely eliminated. Naturally, there is the fact that those who are interested because they perceive its effects as their opportunity will support, defend, and feed it.

The practice of the totalitarian regimes has proved hatred to be a very suitable element for homogenisation of groups, directing and controlling the group, because it is a frequently present internal contents of the man’s consciousness, or subconsciousness which may but need not be publicly demonstrated. When it gets a “public licence” to become outward, and that is whenever its public expression is not met with disapproval and sanction, but, on the contrary, it is accepted by applause, reward, more or less voiced approval, it is the evidence that hatred still “does” some work for somebody, plays a role, performs a task.

Institutional Practice – Recently Pronounced Sentences

1. *Freedom of speech does not justify hate speech.* The European Court for Human Rights confirmed in its ruling the appropriateness, allowed the criminal sanctioning of hate speech expressed in leaflets. In the case of *Vejdeland vs. Sweden* the Court ruled that the criminal sanction against the distributor of a leaflet of insulting contents towards persons of LGBT orientation was not a violation of the Convention on Human Rights and that their activities are not protected by Article 10 which guarantees the right speech to everyone (*Vejdeland and Others v. Sweden*, 2012).

2. *Judicial sanction against jeopardizing public security by threatening messages on the Internet.* The first conviction has been made in Serbia for threatening the LGBT population on the social network Face book, and it is at the same time the first conviction for jeopardizing public security by threatening messages on the Internet in our country. Namely, the High Court in Belgrade convicted Sima Vladičić and sentenced him to a three months’ imprisonment or two years of conditional punishment because he threatened the members of the LGBT population on the Face book group “500 000 Serbs against gay parade”. The first conviction in Serbia for jeopardizing public security by sending threat-

ening messages on the Internet is of significance for building a judicial practice of prosecuting very frequent cases of threats, hate speech, and other forms of discrimination on the Internet.

This is also the first case of threats addressed to all the members of the LGBT population, and not just one person. Vladičić confirmed that in August 2011 he threatened the members of the LGBT population by making comments such as: “they want blood, and blood they shall have; gay blood will be shed, they deserve no better; babies should be born, that is the message from the North, we won’t let Serbia become the land of fags“ (Миликић, 2012:02/03).

3 *The court ruling on writing hate graffiti inviting to lynch and killing, accompanied by other activities indicative of hatred and threatening.* The court presided by Judge Ivana Ramić ruled on March 27, 2012 that Mladen Obradović, the leader of the fascist organization *Obraz*, was guilty of the criminal offence stemming from Section 387 – “spreading racial and other discrimination“ because in the period from 13th to 20th September 2009 he had disseminated the ideas of racial and other discrimination (based on personal characteristics or sexual orientation and advocated violence against LGBT population); he did it in writing, inscribing the graffiti of threatening contents (Kill the gay; Stop to Pride Parade; Blood will be shed in Belgrade, there will be no gay parade). The court sentenced him to ten months’ imprisonment and 15,000 dinars for trial expenses (Миликић, 2012:02/03).

Legal Provisions against Hate Graffiti

Nowadays, hate speech is sanctioned in Serbia as well, and some of the provisions apply to hate graffiti. Primarily, for any act of hate speech, whether oral, written, electronic or street slogan, graffiti, poster, or commercial type, there are some general constitutional and statutory norms.

The Constitution prohibits all acts of discrimination, direct or indirect, on whatever grounds (article 21), human dignity is inviolable and everyone is obliged to uphold and protect it (article 23); human life is also inalienable (article 24), and physical and mental integrity is inviolable (article 25). Thus all the values that are most often targeted by various forms of hate speech, including graffiti, are protected by the Constitution. Although the Constitution is not implemented by direct sanctioning of violations, it creates a necessary framework for legislation and defines the necessary boundaries.

1 The graffiti the contents whereof represent threats, hate speech, that invite to violence, lynch, discrimination because of a personal characteristic are provided for in the provisions of the Penal Code⁵ that sanction racial and other discrimination:

Article 387 (1): Persons who based on the difference in race, skin colour,

⁵ *Official Gazette RS, No. 85/2005, 88/2005, 107/2005, 72/2009 u 111/2009.*

religious affiliation, nationality, ethnic origin, or some other personal characteristic, violates human rights and freedoms guaranteed by the generally accepted rules of the international law and ratified international agreements by Serbia, shall be punished by imprisonment of six months to five years. The punishment from paragraph 1 of the article will also apply to persons persecuting organizations or individuals because of their advocating equality among people.

(4) Persons who disseminate or in any other way make publicly available texts, images or any other representations of the ideas or theories advocating or inciting hatred, discrimination or violence, against any other person or group of people, based on race, skin colour, religious affiliation, nationality, ethnic origin, or some other personal characteristic, shall be punished by imprisonment ranging from three months to three years.

(5) Persons who publicly threaten to commit a criminal offence against another person or a group of persons because of their belonging to a certain race, skin colour, religious affiliation, nationality, ethnic origin, or some other personal characteristic, for which the prescribed punishment exceeds four years' imprisonment, shall be punished by the imprisonment of three months to three years.

2 The graffiti whose contents endanger the safety of groups of persons or individuals are subject to the following provisions of the Penal Code:

Article 138 of the Penal Code incriminates threatening safety. Namely, it provides that whoever endangers safety by threatening to attack the life or physical integrity of a number of persons or is such an act causes disturbance of the citizens or other serious consequences, shall be punished by imprisonment lasting from three months to five years.

3 Provisions of the Prohibition of Discrimination Act⁶ apply to the graffiti the contents whereof represent a manifestation of discriminative hate speech:

The Prohibition of Discrimination Act bans hate speech in Article 11. The provisions of this article prohibit expressing ideas information, and opinions encouraging discrimination, hatred or violence against a person or a group of persons because of their personal characteristics, in the newspapers and other publications, at meetings and public places, either in writing or showing messages or symbols or in any other way.

The provisions of Article 12 prohibit harassment and degrading treatment based on personal characteristics, especially it gives rise to fear or hostile, offensive environment.

The provisions of Article 13 provide for grave forms of discrimination, including provoking and encouraging inequality, hatred, and intolerance based on the national, racial or religious affiliation, language, political affiliation, sex, gender identity, sexual orientation, and disability, as well as for discrimination that occurred several times (repeated discrimination) or that has been perpetrated over a longer period of time (prolonged discrimination) towards the same person or group of persons.

⁶ *Official Gazette RS, No. 22/2009.*

Article 15 defines discrimination in the acts of organs of public authorities, stating that everyone is entitled to equal access and equal protection of one's rights before the organs of public authorities. Article 15 also envisages the fine of 10,000 to 50,000 dinars for an official or a responsible person in the public authority for the offence of acting in a discriminatory way (Article 15, paragraph 2).

3. The graffiti which represent the acts of vandalism, i.e. inflicting damage or destruction of other persons' property, cultural or historic goods, monuments, tombs or other places of burial, are subject to the provisions of the Penal Code:

The Penal code sanctions the demolition or damaging of other persons' property and the aggravated form of this act involves cultural or protected surroundings of a immoveable cultural property (Article 212). In addition to this, Article 354 sanctions the damaging or serious violations of monuments or other memorials for a deceased person as an aggravated form of this offence. Damaging cultural or historical monuments or other cultural goods or religious facilities or institutions or facilities intended for scientific purposes, arts, education or humanitarian purposes at times of war or armed conflicts is regarded as the violation of international law and sanctioned as the act of destroying cultural property envisaged by Article 383.

Conclusion

This paper is not to be understood as a campaign against graffiti and graffiti artists, even less so as raising moral panic and calling for draconic sanctioning of their authors. Moral panic is the term used to denote a public campaign against certain phenomena and their agents (Томпсон, 2003:33).

Moral panic occurs when the media construct pseudo events by over-exaggerating, providing popular 'expertise' in a stereotypical and mobilising way and that sensationalism of the media incites moral panic by inviting the enraged public opinion to action against thus represented 'threats'. The chosen object of media representation is shown in black and white in terms of good and evil, using the language of moral anguish. The focus is on the worst manifestations of certain phenomena which are stigmatized as typical and representative of the state of affairs. Sporadic and mutually independent events are represented as being interconnected and omnipresent, so that there is an impression of a systematic, organized criminal activity. As a result, the public opinion is encouraged by the media campaign regarding the risks and convinced of the reality of the danger brought about by the socially deviant behaviour (Мрвеевић, 2008:206).

However, one should be aware that any form of hatred and intolerance of others and different ones is unacceptable. If we disregard the hate graffiti, the public will adopt their pattern and calls for hatred and violence will become 'acceptable'. What follows is actualization of such messages. All graffiti indicative

of any type of intolerance or hatred are in fact a public invitation to lynch, as stated by the mayor of Novi Sad upon the event of organized painting over the graffiti in this city (АИ, 2012:Данас). In the light of all this, violence and calls for violence are not incidents and must not be disregarded as minimal and relative, because they threaten human rights and security. It is true that every scribbling can be painted over, but this is not the issue of painting, but of the awareness that a proper institutional response to such behaviours has not been defined yet.

When considering measures and sanctions against hate graffiti, it would be borne in mind that violence and hate speech are not a consequence of psychopathological conditions of the individuals, whoever they may be, and whomever they hypothetically represented. People most frequently perpetrate violence and publicly use hate speech because they consider it to be legitimate, appropriate. In our society, there are various cultural factors that give legitimacy to violence and hatred, including, among other things, ethnical stereotypes, national myths, lack of tolerance towards sexual minorities. Minimizing the problem or a patronizing attitude of “they are only our children“ contribute to the general climate of impunity that makes space for further spreading of violence against male or female members of any minorities and accompanying belief that it will not be punished.

A long-term solution to this and many other deviant phenomena is establishing social organization and social stability (Југовић, 2009:95). But waiting for an improvement in the economic and social conditions may last and the problem that exists today must be resolved today, without any delays.

An adequate reaction to hate graffiti is primarily reaction and not absence thereof. It should consist of public actions of organizations of the civil society and state organs, popular persons, political leaders, state officials, and other officials which involve condemning and eliminating hate speech and graffiti, engagement of youth organizations in combating all forms of hate speech. Sanctioning the authors of hate graffiti and their principals on all of the aforementioned legal grounds is a requirement that certainly makes sense. It is necessary to always identify the authors (both direct and indirect) of hate graffiti and to prosecute and punish them (although not draconically), permanently differentiating between the hate graffiti and other potentially artistic forms of graffiti. It is necessary to promote respect for and acceptance of differences because it is the way to create room for living, work, creativity, education, and employment, not allowing the advocates of the opposite ideas to hamper the harmony of common living and the wealth of diversity. To be tolerant and to respect diversity means to be free, hold on to one’s beliefs and accept that other people hold on to theirs, accepting at the same time the fact that human beings are naturally different in their values, behaviours, speech, religious and national affiliations, and that everyone has the right to freedom of opinion and to be what they are. It is vital to appreciate people for their qualities and characteristics, their work, and their desert, to observe the principles equality and equal opportunities for all of us in order to live together, and not side by side.

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